



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

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BOSTON, MA 02109-3912

January 4, 2010

Major Stephen R. Lippert
NGB/A 7AM, Program Manager
3500 Fetchet Avenue
Andrews AFB, MD 20762-5157

Re: Draft Environmental Impact Statement—Modification of the Condor 1 and Condor 2 Military Operations Areas (CEQ# 20090272)

Dear Major Lippert:

The Environmental Protection Agency—New England (EPA), in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, has reviewed the Air National Guard's (ANG) Draft Environmental Impact Statement (DEIS) for proposed modifications to the Condor 1 and 2 Military Operations Areas (MOAs) in southwestern Maine and northeastern New Hampshire. The MOAs describe airspace is used by the 104th Fighter Wing of the Massachusetts ANG (MAANG).

The DEIS evaluates proposed changes to the MOAs to allow the 104th Fighter Wing to effectively complete their low altitude awareness training (LOWAT) as well as both Low/Slow Visual Identification and Slow Shadow intercept training missions. The 104th Fighter Wing is based in Westfield, Massachusetts and currently conducts medium and high altitude training along Military Training Routes (MTRs) established by the military and the Federal Aviation Administration (FAA) in the Condor 1 and 2 MOAs along with aircraft from the Vermont ANG, United States Air Force and the United States Navy. The project area has been used for active military training for the past 20 years. The current configuration and operational limits on the Condor 1 and Condor 2 MOAs prevents F-15 and F-16 pilots from demonstrating proficiency in these skill areas down to elevations of 500 feet on a regular basis to meet/maintain their LOWAT qualifications and be "combat ready." Specifically, the current training area is not configured to allow for high to low altitude intercepts, two way traffic, or direction reversal—all of which are identified in the DEIS as integral elements of LOWAT. The proposed project would address those deficiencies and to allow for more realistic LOWAT training scenarios. According to the DEIS the proposed changes would also allow for "bundling" of multiple training missions into the same sortie—resulting in an overall reduction in the number of overall flights and flight hours in the MOAs. The proposed changes would shift the geographic distribution of the low-altitude sorties but it would not increase the number or frequency of these flights (DEIS page 2-14).

The DEIS discusses and dismisses alternatives to the proposed reclassification of the Condor 1 & 2 MOAs including training flights over water, deployment of the pilots elsewhere for training, and use of other airspace in the region for LOWAT training. According to the DEIS, flights over land are required to reinforce low-altitude navigation skills and low altitude training over water is prohibited due to spatial disorientation and visual illusions. Prohibitive cost is presented in the DEIS as the primary reason 104th Fighter Wing pilots would not be deployed to other existing LOWAT airspace in another region of the country and the use of other airspace in the region was eliminated from further consideration as it would not adequately accommodate LOWAT training.

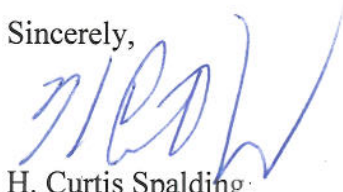
Under the proposed action new low altitude flights would occur over federally managed/protected areas including the White Mountain National Forest (WMNF), Lake Umbagog National Wildlife Refuge (NWR) managed by the United States Fish and Wildlife Service (USFWS) and the Appalachian National Scenic Trail (AT) managed by the National Park Service (NPS). In addition, approximately 6 percent of the land area under the Condor 1 and 2 MOAs is under state protection. Portions of these state areas will see decreases in low-altitude flights with corresponding increases in other areas. Correspondence from the NPS in the DEIS indicates that the proposed flight changes will not adversely effect the AT and that the ANG granted a USFWS request for a 2,000-foot flight floor buffer above the Lake Umbagog NWR. In addition to the flight floor over the Lake Umabagog NWR the DEIS identifies the potential for impacts to threatened and endangered species and biological resources, including bald eagles. To address those impacts the ANG has agreed to a request from the USFWS pursuant to Section 7 of the Endangered Species Act (ESA) for a 1000-foot vertical and 0.25 mile horizontal buffer between training flights and known bald eagle nests from February 1st through August 31st.

In addition to the consideration of biological and land use impacts the DEIS also evaluates the potential for impacts to air quality, noise, socioeconomics, cultural resources and air space management. Because the project only involves modifications to training airspace the DEIS concludes that it will not result in effects to geological or water resources. We concur with that finding.

The potential for increased noise effects on the human and natural environment is the primary impact of the project and the focus of our review. The attachment to this letter presents questions and concerns about the project that we would like to see addressed in the FEIS. We have rated the DEIS "EC-2 "Environmental Concerns---Insufficient

Information" in accordance with EPA's national rating system, a description of which is attached to this letter. Thank you for the opportunity to review the DEIS. Please contact Timothy Timmermann of EPA's Office of Environmental Review at (617) 918-1025 with any questions.

Sincerely,



H. Curtis Spalding
Regional Administrator

Enclosure

cc: Jason Willey, ERM

Summary of Rating Definitions and Follow-up Action

Environmental Impact of the Action

LO--Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC--Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO--Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU--Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1--Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2--Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3--Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

DEIS Comments for the Modification of the Condor 1 and Condor 2 Military Operations Areas

Noise

The DEIS explains that the routes within the MOAs have been active military training areas for twenty years. This history and the proposed reduction in overall hours of training will help to reduce the impact of the new Condor 1 and 2 training activity. The DEIS relies heavily on noise modeling to conclude that the introduction of noise impacts from low altitude flights over 1,584 square nautical miles of new area will not be “significant” as defined by FAA Order 1050.1E (Appendix A). The analysis goes on to explain (DEIS page 4-13) that the “loud overflights would be heard over a smaller area and would be shorter than under current conditions.” While we do not question these results we believe that it is not the average level of noise that will be of the most concern to residents and visitors in the MOA areas. Instead, the likely focus will be on the instantaneous maximum noise level of 117.6dB¹ associated with single flight passes of low flying aircraft. The DEIS explains that while this level of sound does not typically cause structural damage it can result in “secondary vibrations, such as rattling of pictures, windowpanes, or dishes....” We encourage the ANG to take a closer look in the FEIS at ways it could help affected residents to deal with these periodic, short duration (15-20 seconds) noise impacts from the training.

Flight scheduling may be one way to address this impact. The DEIS states on page 2-1 that the 104th Fighter Wing “does not train at night, on weekends, or during holidays.” Later on page 5-5 the DEIS declares, “[t]ypically, the Condor Low and High MOAs would not be scheduled on weekends or holidays.” The FEIS should provide greater certainty on this point. In addition, we suggest that the ANG consider other ways to reduce the actual and perceived impact to humans of low-altitude overflights through public notices of training schedules that includes alerts to affected communities that training will take place on certain days. While notification will not reduce the actual noise level associated with overflights it could serve to reduce the startle effect of overflights as residents in affected communities would come to expect overflights on the designated days. The FEIS should also explore whether or not a compressed weekday schedule (with flights taking place only on some but not all of the five week days) would allow the ANG to perform the necessary training sorties while also reducing the days where noise impacts would be generated.

We also recommend that the noise impact analysis be expanded to include a more complete presentation (by way of maps and charts) of the communities and populations to be impacted along the training routes within the MOAs, with particular attention paid to those areas that are likely to see the greatest amount of low altitude training flights based on the presence of desirable training terrain--to the degree that can be estimated in advance.

¹ Note that this maximum sound level is provided on page 4-13 of the DEIS. Later on page 4-38 a maximum instantaneous level of 115.7dB is referenced. The FEIS should explain which sound level is the maximum.

In addition, we suggest that active communication with affected communities should be a critical element of any proposal to reduce the impacts of the proposed changes to how the MOAs are utilized. The references in the DEIS to the Eastern Air Defense Sector (EADS) as a point of contact for more about training flights is a good start and the ANG should consider a proactive public information campaign to inform the public on a regular basis about when LOWAT flights can generally be expected.

Habitat/Biological Resources

The DEIS describes measures that the ANG will adopt at the suggestion of the United States Fish and Wildlife Service (USFWS) to reduce impacts to the Umbagog NWR and to address impacts to identified bald eagle nests under the proposed MOAs. We recommend that the discussion of impacts be expanded (beyond those to endangered species) in the FEIS to more fully address the disconnect between the USFWS July 16, 2007 comment letter expressing concerns about wildlife disturbance and statements in the DEIS regarding habituation to noise from overflights. Specifically, the DEIS explains that “some individuals may be temporarily disturbed or startled by increased noise levels and/or low-level overflights, but they would likely habituate to these activities and would not suffer any long-term, adverse effects such as reduced reproductive success or fecundity.” (DEIS page 4-23) The DEIS also concludes that, “[t]he proposed Action would not have a significant impact on wildlife underlying the proposed Low and High Condor MOAs.” (DEIS page 4-23) This conclusion appears to contradict statements in the USFWS letter that, “...the vast majority of wildlife disturbance studies, including those that have found “no significant impacts,” have also included the caveat that wildlife response to disturbance is extremely variable.... As a result, different studies have come up with very different results.”

In addition, we suggest that if studies are referenced that include species that are not located in the Condor 1 and 2 MOAs the FEIS should explain how the studies are relevant to the project area.

Cumulative Impacts

The DEIS concludes that the cumulative impact on air quality and noise in the area under the proposed Condor MOAs would be beneficial based on a reduction in the number of annual sorties (through actions to combine training exercises into fewer missions) and a corresponding overall reduction in emissions. We do not question this conclusion but we suggest that the discussion of cumulative impacts related to existing and proposed wind power facilities be expanded in the FEIS. Presently, the DEIS explains that, “[t]he ANG will load the locations of the proposed wind farms into the onboard navigational systems on their aircraft, and pilots will avoid these areas.” These measures make sense. The discussion of cumulative impacts should be expanded, however, to explain how future wind power facilities could affect training within the Condor 1 and 2 MOAs (and if this could lead to future modifications of the MOAs) or if the MOAs would become a barrier to future wind power development.

Impacts to Penobscot Tribe

The DEIS (page 4-39) describes the potential for the proposed action to impact resources of the Penobscot Nation and concludes that no adverse impact would occur. The discussion also indicates that efforts were made to contact the tribe in 2006 and 2007 but that no response was received. We strongly encourage the ANG to continue efforts to have a direct conversation with the tribe to confirm that they share the conclusions reached in the DEIS and that the suggested mitigation measures will adequately address any identified impacts of concern to the tribe. We recommend that the FEIS also report whether the ANG offer to coordinate training sorties to avoid tribal ceremonies/minimize disruptions is acceptable to the tribe.

Other

We note a number of references to the DEIS as an "EA" and suggest that they be removed in the FEIS.